IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4037 of 1990

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

VASUDEV RAMPURI GOSAL

Versus

MADICAL OFFICER

Appearance:

MR VASANT S SHAH for Petitioner No. 1

MR PV HATHI for Respondent No. 1

RULE SERVED for Respondent No. 2-4

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 21/07/2004

ORAL JUDGEMENT

1. This matter was listed for hearing on 6.7.2004 and on that day Mr. V.S. Shah for the petitioner had filed sick note. Therefore the matter was adjourned to 20.7.2004. On that day Mr. Shah has filed leave note. Therefore the Court passed the following order:

"When the matter was fixed on 6.7.2004 Mr. V.S. Shah has filed sick note. Even today he has filed leave note. As a last chance S.O. to 21.7.2004.Tomorrow, even if there is a sick note or leave note of Mr. Shah, the matter will be proceeded."

Even today he has filed sick note. No alternative arrangement has been made and therefore the matter is taken up for hearing. No mention was done for Mr.Shah that he was sick.

2. The petitioner was taken as a part time peon on daily wage basis in the Primary Ayurvedi Centre, Martoli, Taluka Mehsana. According to him he served there for about eight years and on every month he worked for 29 days. According to him, initially he was given salary of Rs.450/- per month and thereafter Rs.260.50 per month. The petitioner alleged that he rendered services for more than seven hours a day.

3. According to the petitioner the respondent no.2 had written a letter inquiring as to how the petitioner had been appointed to which the respondent no.1 replied that he has been appointed with the permission of the District Health Officer. The petitioner alleged that thereafter the District Health Officer, Mehsana by order dated 1.1.1990 appointing another person on daily wage basis as peon in place of the petitioner and the petitioner has been relieved from service from 1.1.1990. Therefore he has filed the present petition praying for setting aside the order dated 1.1.1990 and also to appoint the petitioner on the post of peon.

4. In short the petitioner has prayed to regularise his service in the District Panchayat. The petitioner has not given any details about his appointment. He himself admitted that he was working as part time Peon on daily wage basis. It is clear that the petitioner has not been appointed after following the procedure. This point has been decided by this Court in Special Civil Application No.5746/1999 and other cognate matters dated 9.7.2004 wherein it is held that the persons who are not regularly appointed cannot be regularised. In view of the said decision the petitioner's case cannot be considered.

5. In the result, the petition is rejected. Rule is discharged with no order as to costs.

[K.S. JHAVERI, J.]

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